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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/737,649 12/15/00 BROWNBILL

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000201  
UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER NJ 07020

IM52/0829

EXAMINER

ELHILO.F

ART UNIT

PAPER NUMBER

1751

DATE MAILED:

08/29/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.

09/737,649

Applicant(s)

BROWNBILL ET AL.

Examiner

Eisa B Elhilo

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other:  |

Art Unit: 1751

Claims 1-12 are pending in this application.

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 10 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is indefinite because the claim recites the word “preferably”. It is unclear what is the degree of the pH exactly. The specification does not provide any guidance.

Claims 10 and 12 are indefinite because the dependency of these claims is improper. Claim 10 should depend on claim 9 and claim 12 should depend on claim 11. Correction of the dependency of these claims is required.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lim et al. (US' 5,961,666).

Art Unit: 1751

Lim (US' 666) teaches hair dyeing and bleaching composition (see col. 2, line 35-38). The composition comprises oxidizing agent such as hydrogen peroxide (see col. 4, line 42), ammonium hydroxide as a buffering agent (see col. 6, line 5), cholesterol (see col. 3, line 48), surfactants (see col. 3, lines 40-41) and a pH range from 5 to 11 (see col. 6, lines 1-2). Lim also teaches a method for dyeing hair. The method comprises the step of mixing the hair dyeing preparation with an oxidant shortly before use, or at the time of applying the mixture onto the hair (see col. 6, lines 21-23). Lim also teaches kits that provide containers for housing the dye precursors and oxidizing agents (see col. 6, lines 49-63).

The claims differ from the reference by reciting hair-bleaching composition. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make such a composition because the reference teaches similar ingredients to those recited by the claims suitable for inclusion in a bleaching composition. The person of ordinary skill in the art would expect the recited composition to have similar properties to those claimed, absent unexpected results.

5. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (US' 5,851,237).

Anderson (US' 237) teaches a method for oxidative hair dye and dye composition. The dye composition comprises oxidizing agent such as hydrogen peroxide (see col. 9, lines 2-3), quaternary ammonium compounds as a buffering agent (see col. 9, lines 37-39), cholesterol (see col. 8, line 6), surfactants (see col. 7, line 67) and a pH range from 5 to 11 (see col. 10, lines 41-42). Anderson also teaches a method for dyeing hair. The method comprises the step of mixing the hair dyeing preparation with an oxidant shortly before use, or at the time of applying the

Art Unit: 1751

mixture onto the hair (see col. 10, lines 58-61). Anderson also teaches kits that provide containers for housing the dye precursors and oxidizing agents (see col. 11, lines 36-44).

The claims differ from the reference by reciting hair-bleaching composition. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make such a composition because the reference teaches similar ingredients to those recited by the claims suitable for inclusion in a bleaching composition. The person of ordinary skill in the art would expect the recited composition to have similar properties to those claimed, absent unexpected results.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Mark Kopec  
Primary Examiner

Application/Control Number: 09/737,649

Page 5

Art Unit: 1751

*EE*

Eisa

August 15, 2001

*mlk*  
Mark Kopec  
Primary Examiner